



CITY OF DURHAM | NORTH CAROLINA

**Date:** October 3, 2012

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Marvin G. Williams, Director of Public Works  
**Subject:** Agenda Item – Contract with Pulte Home Corporation for Construction of Utility Improvements and for Reimbursement and ordinance for creation of Utility Basin Surcharge Fee

### **Executive Summary**

In June of 2005, the City Council approved an ordinance modification that allows the City to enter into agreements with developers who construct major infrastructure improvements to the City's water and/or sewer system. Under the ordinance, developers can receive reimbursement for the costs of such improvements from other developers whose developments use, and benefit from, the improvements constructed. The attached contract is the third contract proposed for approval under this ordinance. It allows PULTE HOME CORPORATION ("the Utility Developer") to construct a regional sewer pumping station and force main, and gravity outfall to serve an area north of HWY-70, east of Leesville Road to Wake County including a portion of Wake County inside the City of Durham's Service Area. A basin map is attached. This contract provides for the reimbursement to the Utility Developer of payments received from future benefited developers who have entered into extension agreements with the City and who connect to the improvements. Under this contract the City agrees that the Developer will be direct reimbursed for the oversized force main and third future pump station wet well associated with these utility improvements by the terms of this Contract. This Contract creates no obligation on the City to reimburse the Utility Developer if the direct reimbursements from future developers are insufficient. However, it does obligate the City to continue imposing up-front costs on developers who benefit from the infrastructure constructed by the Utility Developer. The City's role is essentially that of a pass-through agent – calculating the costs to be reimbursed to the Utility Developer who constructs the infrastructure, and then receiving payments from subsequent developers, and reimbursing the Utility Developer. The system created will add to the development costs in the areas in which these contracts are used to provide utility infrastructure.

### **Recommendation**

The Department of Public Works recommends that the City Council authorize the City Manager to enter into a water and sewer extension reimbursement agreement with Pulte Home Corporation; and to adopt an Ordinance to Impose a Utility Basin Surcharge Fee for Utility Improvements that has been created to Provide Service to Future Users in the Utility Basin.

### **Background**

Historically, the City has not provided significant reimbursement options to developers who construct portions of the City's water and/or sewer system. In addition, the City has not

routinely funded major extensions to the City's water distribution system and sewage collection system. Rather, the City has relied on developers to extend the system in the process of constructing new development. Often, however, this has hampered the orderly expansion of the City's utility system, in particular when the components of the system that need to be constructed are particularly expensive. In June of 2005, the City Council approved an ordinance modification that allows the City to enter into agreements with developers that provide for future reimbursement to developers who construct significant additions to the City's water and/or sewer system. The ordinance is attached. This contract is the third contract utilizing this ordinance. It provides for the reimbursement of the Utility Developer constructing the utility improvements – Pulte Home Corporation – from payments received from future benefited developers who will, in the future, enter into extension agreements with the City and connect to the improvements. The contract period is for 15 years, unless reimbursement occurs prior to the end of 15 years. In order to carry out its part in this reimbursement plan, the City must follow through in future years by requiring all developers who connect to the improvements being constructed by Pulte Home Corporation, and execute extension agreements for utility service with the City, to pay an upfront amount towards the infrastructure that has already been created. Those developers will pay: \$2,500.00 for detached single-family homes (townhomes and condo style townhomes) , and for all uses other than detached single family dwellings, such as multifamily and nonresidential development, \$11.57 USD per gallon per day of permitted wastewater flow (as defined by the sewer design flow rates found in the North Carolina Administrative Code Section 15A NCAC 02H .0200 – Waste Not Discharged to Surface Waters.) This will add to the cost of future development in the area being served; however, future development is not realistically possible without some entity paying for the improvements. With the exception of the two direct reimbursibles (oversized force main and future wet well) specified in the contract, the City is not required to reimburse Pulte Home Corporation if new development does not occur to the degree necessary to fully reimburse Pulte Home Corporation for its costs under the contract. The risk that future development will not be sufficient to pay the Utility Developer's costs is born by the Utility Developer. The contract allows the City to retain an amount for the City's expenses in administering the program and to recoup its direct reimbursement costs while passing through payments received by future benefited developments.

### **Issues/Analysis**

The Del Webb Project is located inside the City limits (effective August 1, 2011) and City Council has approved a utility extension agreement and zoning for this site. Pursuant to the approved utility extension agreement this request for a reimbursement agreement is being presented to the City Council for Approval.

### **Alternatives**

City Council can choose not to approve the request.

### **Financial Impact**

The City of Durham would agree by the direct reimbursement section of this agreement to reimburse a maximum of \$635,000 for construction of the ultimate basin force main and a maximum of \$40,000 for the future wet well (ultimate build out) of the sanitary sewer pump station.) However, as new development occurs in the basin, the City of Durham will receive reimbursements from new developers from the basin fee that will offset the City's direct reimbursement costs.

### **SDBE Summary**

The SDBE Summary is not applicable for this item.